



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: OPT, MNDC, FF

### Introduction / Background / Evidence

This hearing was scheduled in response to the tenant's application for an order of possession / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The tenant attended and gave affirmed testimony. The landlord did not appear.

The tenant testified that he served the landlord with his application for dispute resolution and the notice of hearing ("hearing package") by way of registered mail. The tenant did not include a copy of the Canada Post registered mail tracking number in his documentary evidence, and he did not have it with him at the time of the hearing. The tenant further testified that he served the landlord with the hearing package at an address she provided to him in an email. However, neither was a copy of that email included in the tenant's documentary evidence. Further, the tenant indicated that even while he had been receptive to exploring a resolution of the dispute directly with the landlord, the landlord has declined to respond to his email / text communications.

### Analysis

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 addresses **Special rules for certain documents**, and provides in part:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

Section 71 speaks to **Director's orders: delivery and service of documents**, in part:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

- (a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];

I find there is insufficient documentary evidence that would enable me to conclude that the hearing package has been served in accordance with the above statutory provisions. The tenant's application must therefore be dismissed with leave to reapply.

### Conclusion

The tenant's application is hereby dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 10, 2015

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Residential Tenancy Branch

